



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NO.

09/196977

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED:

INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Marie Patterson (3) _____

(2) Paul Jettner (4) _____

Date of Interview 11/30/99

Type: ☐ Telephonic ☐ Televideo Conference ☒ Personal (copy is given to ☐ applicant ☒ applicant's representative).

Exhibit shown or demonstration conducted: ☒ Yes ☐ No If yes, brief description: A cut up and full

prototype were shown

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: Proposed amended claims

Identification of prior art discussed: all of record

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant

proposes to amend the claims to recite the portions
of the strap are contiguous and sequential. This
raises new issues at this point but does appear
to overcome the 102 rejection subject to further

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

steps and/or considerations

☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary. A FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has been ready been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

Examiner Note: You must sign this form unless it is an attachment to another form.

M.D. Patterson

M.D. Patterson
Primary Examiner

Manual of Patent Examining Procedure, Section 713.04 Substance of Interview must Be Made of Record

Except as otherwise provided, a complete written statement as to the substance of any face-to-face or telephone interview with regard to an application must be made of record in the application, whether or not an agreement with the examiner was reached at the interview.

§1.133 Interviews

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(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111 and 1.135. (35 U.S.C. 132)

§ 1.2. Business to be transacted in writing. All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete a two-sheet carbon interleaf Interview Summary Form for each interview held after January 1, 1978 where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks in neat handwritten form using a ball point pen. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, pointing out typographical errors or unreadable script in Office actions or the like, or resulting in an examiner's amendment that fully sets forth the agreement are excluded from the interview recordation procedures below.

The Interview Summary Form shall be given an appropriate paper number, placed in the right hand portion of the file, and listed on the "Contents" list on the file wrapper. In a personal interview, the duplicate copy of the Form is removed and given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephonic interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication.

The Form provides for recordation of the following information:

- Application Number of the application
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (personal or telephonic)
- Name of participant(s) (applicant, attorney or agent, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the claims discussed
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). (Agreements as to allowability are tentative and do not restrict further action by the examiner to the contrary.)
- The signature of the examiner who conducted the interview
- Names of other Patent and Trademark Office personnel present.

The Form also contains a statement reminding the applicant of his responsibility to record the substance of the interview.

It is desirable that the examiner orally remind the applicant of his obligation to record the substance of the interview in each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check a box at the bottom of the Form informing the applicant that he need not supplement the Form by submitting a separate record of the substance of the interview.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview:

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner. The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he feels were or might be persuasive to the examiner,
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete or accurate, the examiner will give the applicant one month from the date of the notifying letter to complete the reply and thereby avoid abandonment of the application (37 CFR 1.135(c)).

Examiner to Check for Accuracy

Applicant's summary of what took place at the interview should be carefully checked to determine the accuracy of any argument or statement attributed to the examiner during the interview. If there is an inaccuracy and it bears directly on the question of patentability, it should be pointed out in the next Office letter. If the claims are allowable for other reasons of record, the examiner should send a letter setting forth his or her version of the statement attributed to him. If the record is complete and accurate, the examiner should place the indication "Interview record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

26. An article of footwear having a heel portion, comprising:
- a) a sole, the sole having a midfoot portion and a heel portion;
 - b) a channel extending transversely across the midfoot portion of said sole and at least partly under said sole;
 - c) an instep strap connected on one end to the heel portion of said [sole] footwear on one side of said footwear, said strap [having a first portion] extending in a forward direction transversely across a wearer's instep from one side of said sole to the other, said strap then passing [a second portion extending] through said channel and slideable within said channel, and said strap then [a third portion] extending in a rearward direction transversely across the wearer's instep from said other side to said one side of said [sole] footwear, the other end of said instep strap being connected to the heel portion of said footwear on one side of said footwear, [the first and third portions of] said strap forming an X configuration over the wearer's instep[, and the second portion being between the first and third portions of said strap]; and
 - d) adjustment means [an adjustable fastener] attached to said strap for adjusting the tension in said strap [to pull the midsole portion of said sole snugly to the wearer's foot].

46. An article of footwear, comprising:

- a) a sole, said sole having forefoot, midfoot and heel portions;
- b) a channel extending across the midfoot portion of said sole, said channel being at least partly under said sole;
- c) an instep strap attached at its respective ends to the lateral and medial sides of said heel portion of said [sole] footwear, said strap having a first portion extending in a forward direction transversely across a wearer's instep from one side of said sole to the other, a second portion extending through said channel, and a third portion extending in a rearward direction transversely across the wearer's instep from said other side to said one side of said sole, said first, second and third portions being sequentially contiguous to each other, said first and third portions forming an X configuration over the wearer's instep, [thereby] said instep strap providing connection points between said instep strap and said footwear [sole] at the lateral and medial sides of the heel portion of said footwear [sole] and the lateral and medial sides of the midfoot portion of said sole; and
- d) a fastener attached to said instep strap to pull said midsole to the wearer's foot.